

1. Re Item I (*Basis of the report*)

Reference is made to the following documents:

- D1: WO 02/10156 A (ARPIDA AG) 7 February 2002 (2002-02-07)
- D2: WO 02/10157 A (ARPIDA AG ; BURRI KASPAR (CH); ISLAM KHALID (CH); GILLESSEN DIETER (CH) 7 February 2002 (2002-02-07)
- D3: EP-A-0 096 214 (WELLCOME FOUND) 21 December 1983 (1983-12-21)
- D4: EP-A-0 051 879 (WELLCOME FOUND) 19 May 1982 (1982-05-19)

2. Re Item V (*Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement*)

2.1 Subject-matter

The present application relates to

- benzofuran-derivatives characterised by a indol-3-methyl substituent at position 2 having antibacterial activity (claims 1-6)
- intermediates for their preparation (claim 7)
- their use as antimicrobials (claims 8-17).

2.2 Novelty

Documents D1 and D2 disclose benzofuran derivatives, wherein R¹ is respectively defined inter alia as optionally substituted heteroaryl methyl (see D1, claim 1; see D2, claim 1) thereby overlapping with the present -CH₂-R¹ group at position 2 of the present central benzofuran moiety. However, neither the specific embodiments of D1/D2 nor their examples D1 or D2 disclose specifically an 1H-indol-3-methyl group. Accordingly, the subject-matter of present claim 1 is considered as a novel selection over D1 and D2.

The subject-matter of claim 1 differs from

- D3 in view of the indole group (see list of suitable substituents of "Y" in D3)
- D4 in view of the indole group (see definition of "X" in D4).

The subject-matter of claims 2-6 and 8-17 is novel by consequence.

The subject-matter of claim 7 differs from D1-D4 in view of the aldehyde- or

bisindole-methyl group at position 2 of the benzofuran.

The requirements of novelty are fulfilled.

2.3 Inventive step

Documents D1 and D2 are presently considered as respective closest prior art. These documents disclose antibacterial benzofuran compounds (see respective claims 1 and 6).

In view of these documents, the problem to be solved could be regarded as the provision of further benzofuran derivatives having the same activity.

The provided solution consists in compounds according to claims 1-6. However, the subject-matter of claims 1-6 consists in the selection of particular compounds from the range of compounds described in documents D1 and D2. Such a selection can only be regarded as inventive, if the claimed selection presents unexpected effects or properties in relation to the rest of the range. However, no such effects or properties are indicated in the application vis-à-vis the closest prior art possible which is apparently represented by the indol-1-methyl-derivatives disclosed in D1, page 6, line 14 and D2, page 9, line 24.

The requirements of inventive step are not fulfilled.

3. Re Item VII (*Certain defects in the international application*)

Although claims 2-6 have been drafted as separate independent claims, they appear to relate effectively to the same subject-matter and to differ from each other only with regard to the definition of the subject-matter for which protection is sought and in respect of the terminology used for the features of that subject-matter. The aforementioned claims therefore lack conciseness and as such do not meet the requirements of Article 6 PCT. Claims 2-6 comprise all the features of claim 1 and are therefore not appropriately formulated as claims dependent on the latter (Rule 6.4 PCT).